

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:19-cr-00162

KEVIN LEE BOSTON, II

MEMORANDUM OPINION AND ORDER

Pending before the court is a pro se, letter-form Renewed Motion for Compassionate Release, [ECF No. 46], filed by Defendant Kevin Lee Boston, II. Mr. Boston previously filed a Motion for Compassionate Release, [ECF No. 44], on October 13, 2020. I denied that first Motion for a failure to demonstrate extraordinary and compelling reasons that would justify his release. [ECF No. 45].

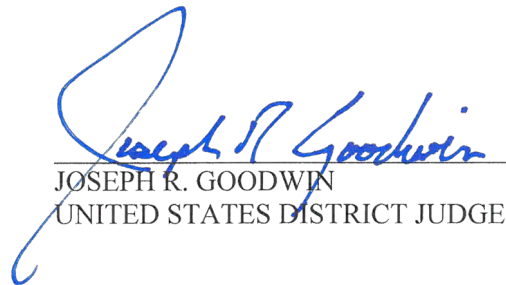
For me to reduce or modify Mr. Boston's sentence under compassionate release, I must find that he has exhausted his administrative remedies or waited 30 days from petitioning the Warden at the facility in which he is housed, has demonstrated "extraordinary and compelling reasons," is not a danger to the safety of others, and find that his release is consistent with § 3553(a) factors. *See e.g., United States v. Howard*, No. 4:15-CR-00018-BR, 2020 WL 2200855, at *2 (E.D.N.C. May 6, 2020); U.S.S.G. § 1B1.13 (2018). If the defendant is filing a renewed motion for compassionate release based on new or additional allegations not included in the original Motion, the defendant must again exhaust his administrative remedies before seeking relief from the court. *United States v. Read-Forbes*, No. 12-20099-01-

KHV, 2020 WL 4726685, *3 (D. Kan. Aug. 13, 2020); *United States v. Adkins*, No. 2:10-CR-10-PPS, 2020 WL 4188205, at *2 (N.D. Ind. July 21, 2020); *United States v. Polley*, No. CR 18-196, 2020 WL 3574373, at *3 (E.D. Pa. June 30, 2020).

In this case, Mr. Boston has not indicated that he has made any such required request to the Warden for this renewed request. Therefore, his Motion, [ECF No. 46], is **DENIED without prejudice**. This ruling means that Mr. Boston may petition the court again after making a request to the Warden *and* either exhausting his administrative remedies through the Bureau of Prison's appeal process or waiting 30 days from the Warden's receipt of his request, whichever is earlier. *See* 18 U.S.C. § 3582(c)(1)(A).

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: November 12, 2020


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE